

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition:** 84-004-06-1-7-00244  
**Petitioner:** Premier Diagnostic Imaging, LLC  
**Respondent:** Vigo County Assessor  
**Parcel:** Personal Property  
**Assessment Year:** 2006

The Indiana Board of Tax Review (Board) issues this determination in the above matter. The Board finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 August 13, 2007. Although the copy of the Form 130 attached to the Form 131 is neither dated nor file stamped, testimony that it was filed on that date is undisputed.
2. The PTABOA mailed notice of its decision to the Petitioner on October 30, 2007.
3. The Petitioner appealed to the Board by filing a Form 131 on November 28, 2007, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing dated January 8, 2008.
5. Administrative Law Judge Paul Stultz held the administrative hearing in Terre Haute on February 11, 2008.
6. The following persons were present and sworn as witnesses at the hearing:  
For the Petitioner - David McDaniel, CPA,  
For the Respondent - Deborah Lewis, County Assessor,  
Edward Bisch, PTABOA member.

**Facts**

7. This case involves business tangible personal property.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The assessed value of the personal property as determined by the PTABOA is \$959,760.
10. The assessed value requested by Petitioner is \$19,014.

## **Issue**

11. Summary of the Petitioner's contentions:
- a. Certain leased equipment reported as depreciable assets on the Petitioner's 2006 Form 103 was also reported as depreciable assets on the 2006 Form 103 filed by Siemens Medical Solutions USA, Inc. Due to the error, both the Petitioner and Siemens were assessed for and paid property taxes on the same equipment. The Petitioner seeks to have its Form 103 corrected and to obtain a refund of the taxes paid. *McDaniel testimony; Pet'r Ex. 1, 3, 4.*
  - b. Because of the vague language regarding tax liability in the lease, the Petitioner took the position that it was responsible for reporting the leased equipment and included the leased equipment in its asset pools. The Petitioner was unaware that Siemens also reported the leased equipment in its asset pools for the 2006 assessment until it received an invoice for reimbursement of the property taxes paid by Siemens. *McDaniel testimony; Pet'r Ex. 1, 3, 4, 5, 6.*
  - c. The Petitioner did not file an amended return to correct the error because the error was not discovered within the 6 month time limitation for filing an amended return. Instead, the Petitioner filed a Form 130 petition asking the PTABOA to correct the Petitioner's assessment by excluding the leased equipment from its asset pools and to refund the taxes paid. *McDaniel testimony; Pet'r Ex. 1.*
12. Summary of the Respondent's contentions:
- a. There is a procedure to amend or correct a personal property return, but in this case the time had lapsed to remedy the situation. The Petitioner did not amend the return within the 6 months that is allowed. Although the Form 130 was timely, no relief can be granted because the Petitioners failed to amend its return within the time allowed by statute, Ind. Code § 6-1.1-3-7.5.
  - b. Additionally, because the equipment that is the subject of this dispute is covered by a capital lease, it should be Siemens, as lessor, attempting to correct its Form 103 because it incorrectly included the leased equipment in its asset pools. *Lewis testimony; Resp't Ex. 1, 2.*
  - c. The assessment is correct and should stand. If there is any correction to be made, it would be for Siemens because the subject is capital lease equipment.

## **Record**

13. The official record for this matter is made up of the following:
- a. The Petition,

- b. The digital recording of the hearing,
- c. Petitioner Exhibit 1: Statement of contentions,  
 Petitioner Exhibit 2: Form 131 Petition,  
 Petitioner Exhibit 3: Petitioner's Personal Property Return March 1, 2006,  
 Petitioner Exhibit 4: Siemens Financial Services Personal Property Return March 1, 2007,  
 Petitioner Exhibit 5: Equipment leases and the property tax invoices from Siemens,  
 Petitioner Exhibit 6: Property tax bills and cancelled checks,  
 Petitioner Exhibit 7: Form 115,  
 Respondent Exhibit 1: Ind. Code § 6-1.1-3-7.5,  
 Respondent Exhibit 2: IAC 50 4.2-8-4,  
 Board Exhibit A: Form 131 with attachments,  
 Board Exhibit B: Notice of Hearing,  
 Board Exhibit C: Hearing Sign-In-Sheet,
- c. These Findings and Conclusions.

### **Analysis**

- 14. Indiana's personal property tax system is a self-assessment system. Every person, including any firm, company, partnership, association, corporation, fiduciary, or individual owning, holding, possessing, or controlling personal property with a tax situs in Indiana on March 1 of a year must file a personal property tax return on or before May 15 of that year unless the person gets an extension of time. Ind. Code § 6-1.1-3-7; 50 IAC 4.2-2-2.
- 15. The most applicable statute in this case, Ind. Code § 6-1.1-3-7.5, provides:
  - (a) A taxpayer may file an amended personal property return, in conformity with the rules adopted by the department of local government finance, not more than six (6) months after the later of the following:
    - (1) The filing date for the original personal property tax return, if the taxpayer is not granted an extension in which to file under section 7 of this chapter.
    - (2) The extension date for the original personal property tax return, if the taxpayer is granted an extension under section 7 of this chapter.
  - \*\*\*\*\*
  - (c) If a taxpayer wishes to correct an error made by the taxpayer on the taxpayer's original personal property tax return, the taxpayer must file an amended personal property tax return under this section within the time required by subsection (a). A

taxpayer may claim on an amended personal property tax return any adjustment or exemption that would have been allowable under any statute or rule adopted by the department of local government finance if the adjustment or exemption had been claimed on the original personal property tax return.

16. The Petitioner did not make a case that requires a change regarding the valuation of its 2006 business personal property. This conclusion was arrived at because:
- a. In concept, the Petitioner is correct that both it and Siemens should not have to pay property tax for 2006 on the same equipment. Assuming, *arguendo*, that the Petitioner and Siemens both reported the same property as taxable on their original returns, one or the other might have made a mistake.<sup>1</sup> It is not clear, however, that the Petitioner is the one who made the mistake. *See* 50 IAC 4.2-2-4 and 5; 50 IAC 4.2-8-3 and 4. Nevertheless, the Board is not required to make that determination because the issue is not determinative in this case.
  - b. The undisputed evidence establishes that the Petitioner timely filed its Form 103 and admittedly did not attempt to amend that original return within 6 months as allowed by Ind. Code § 6-1.1-3-7.5. The fact that the Petitioner did not discover the alleged error until the Petitioner received bills from Siemens for reimbursement is irrelevant. The mandatory language of subsection (c) is clear and unambiguous: “If a taxpayer wishes to correct an error made by the taxpayer on the taxpayer’s original personal property tax return, the taxpayer must file an amended personal property tax return under this section within the time required by subsection (a).” Such “[a] clear and unambiguous statute must be read to ‘mean what it plainly expresses, and its plain and obvious meaning may not be enlarged or restricted.’” *Indianapolis Historic Partners v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1224, 1227 (Ind. Tax Ct. 1998) (*quoting Department of State Rev. v. Horizon Bancorp*, 644 N.E.2d 870, 872 (Ind. 1994)). The Petitioner missed the opportunity to amend its return and possibly remove the leased equipment from its asset pools.
  - c. The Petitioner brought this matter to the Board as a Form 131 appeal. The Form 131 appeals process is governed by Ind. Code § 6-1.1-15 and is for taxpayers who appeal an action of a local assessing official.<sup>2</sup> Such actions include a local assessing official placing an assessment on personal property when a taxpayer failed to file a property tax return, or a local assessing official making a change to

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<sup>1</sup> The Petitioner’s Form 131 Petition contains several attachments, including a copy of its 2006 personal property tax return and a copy of Siemens’ 2007 personal property tax return for Honey Creek Township. The Petitioner’s 2006 return includes Form 103-N, Schedule II, which lists property “TO BE ASSESSED AS A CAPITAL LEASE TO PERSON IN POSSESSION OF PROPERTY” and reports five items as being owned by Siemens. Siemens’ 2007 return includes a “Declaration of Property Leased to Others” and reports five items as being leased to the Petitioner. The general descriptions of the items seem to match, but the costs do not.

<sup>2</sup> The most pertinent language states “A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official’s action with respect to the assessment of the taxpayer’s tangible property if the official’s action requires giving of notice to the taxpayer.” Ind. Code § 6-1.1-15-1(a).

a return filed by a taxpayer. In this appeal, however, no local assessing official took action to change anything about the original return. Accordingly, the appeal process described in Ind. Code § 6-1.1-15 does not provide an avenue to the remedy the Petitioner seeks.

### **Conclusion**

17. The Petitioner failed to file a timely amended personal property tax return under Ind. Code § 6-1.1-3-7.5, which would have been the appropriate way to obtain relief. This procedural error precludes the Board's determination about whether the leased equipment should have been included as depreciable assets on the Petitioner's Form 103.
18. The Board finds for the Respondent. There will be no change as a result of this appeal.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: April 22, 2008

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Commissioner,  
Indiana Board of Tax Review

#### **- Appeal Rights -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>